

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

MATTHEW THOMPSON,

Plaintiff,

v.

CASE NO. 4:14-cv-465-RH-GRJ

B. SMITH, et al.,

Defendants.

_____ /

ORDER

This matter is before the Court on ECF No. 69, Plaintiff's Request for Additional Subpoenas, and ECF No. 70, Plaintiff's Request for Subpoenas.

Plaintiff requests the Court to issue witness subpoenas for testimony at trial, currently set for July 17, 2017. In one request, Plaintiff seeks subpoenas for Ms. Hawkins, the law library supervisor, and Inspector Zwyer from the Florida Department of Corrections Inspector General's office. (ECF No. 69.) Plaintiff claims these witnesses will be able to testify about the type and amount of legal supplies in Plaintiff's possession at his law library callout on March 10, 2014, as well as Plaintiff's allegation that his files were unlawfully taken, thereby preventing access to the courts.

(*Id.*)

In the other request, Plaintiff seeks to subpoena the undersigned, United States Magistrate Judge Charles A. Stampelos, opposing counsel Marcus O. Graper, and opposing counsel Mark S. Urban. (ECF No. 70.) Plaintiff says these witnesses are necessary to explain to the jury why his discovery requests, motion for production, and motion for appointment of counsel to seek discovery materials have been denied. (*Id.*)¹ Although Plaintiff is entitled to subpoena witnesses for trial who could provide relevant testimony, Plaintiff cannot subpoena the judges assigned to this case or opposing counsel.² Plaintiff's request for subpoenas for these individuals is therefore denied with prejudice.

As to Ms. Hawkins and Inspector Zwyer, although this case has been set for trial beginning July 17, 2017, dispositive motions are not due until May 19, 2017. (ECF No. 56.) Thus, it is premature to determine whether this case will proceed past the dispositive motion stage to trial. In the event dispositive motions are not filed, and assuming these individuals could

¹ These same subpoena requests were also filed in another case Plaintiff has currently pending in this Court: *Thompson v. Sikes*, No. 4:14-cv-465-RH-GRJ, ECF Nos. 69–70 (N.D. Fla. May 7, 2015).

² Although Judge Stampelos is not assigned to the instant case, Judge Stampelos was the magistrate judge assigned to Case No. 4:14-cv-465-RH-GRJ, before he recommended that the case be consolidated with this case in light of the common questions of issue and facts and subsequently reassigned to the undersigned. Mr. Urban and Mr. Graper are attorneys of record for Defendants in this matter.

provide relevant facts regarding Plaintiff's claims, Plaintiff would be entitled to renew his request for subpoenas after the dispositive motion deadline has expired. Alternatively, in the event dispositive motions are filed and subsequently denied, Plaintiff would be entitled to renew his request at that time. Plaintiff is advised, however, that if this case proceeds past the dispositive motion stage and Plaintiff renews his request, he must provide proper addresses for each witnesses so the subpoenas may be served.

Accordingly, upon due consideration, it is **ORDERED**:

1. Plaintiff's Request for Additional Subpoenas, ECF No. 69, is **DENIED without prejudice.**
2. Plaintiff's Request for Subpoenas, ECF No. 70, is **DENIED with prejudice.**

DONE AND ORDERED this 4th day of May, 2017.

s/ Gary R. Jones

GARY R. JONES
United States Magistrate Judge